



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

230 SOUTH DEARBORN ST., 37TH FLOOR
CHICAGO, IL 60604

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

September 24, 2021

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██████████
██████████
██████████

ELIZABETH HUNTER et al.

v.

U.S. DEPARTMENT OF EDUCATION, et al.

Case No. 6:21-cv-00474 (AA)

GOV Ex. 2

Sent via email only to: ██████████

OCR Case No. ██████████

Dear ██████████:

The U.S. Department of Education, Office for Civil Rights (OCR), has received a complaint against the ██████████. OCR received the complaint on June 4, 2021. The Complainant (██████████) alleges that the ██████████ discriminated against ██████████ on the basis of sexual orientation when it rescinded ██████████ admission after learning that ██████████ was in a same-sex marriage.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 - 1688, and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the ██████████ is subject to Title IX. Title IX and its implementing regulation contain several exemptions and exceptions from its coverage. *See* 20 U.S.C. §§ 1681(a)(1)-(9); 34 C.F.R. §§ 106.11-106.15; *see also* OCR's [webpage on exemptions from Title IX](#). If the ██████████ intends to claim an exemption from the application of Title IX and its implementing regulation to this complaint, please contact the OCR staff member identified below. The ██████████ may do this before responding to the data request below.

OCR is opening an investigation into the complaint. Please understand that opening an investigation does not mean that OCR has made a decision about the complaint. During the investigation, OCR is neutral; OCR will collect and analyze the evidence it needs in order to make a decision about the complaint. OCR will ensure that its investigation addresses the complaint allegations and complies with OCR's *Case Processing Manual*.¹

Please read the enclosed document entitled "OCR Complaint Processing Procedures," which includes information about:

¹ <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>

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- OCR's complaint processing procedures;
- Regulatory prohibitions against retaliation and intimidation of persons who file complaints with OCR or participate in an OCR investigation; and
- Application of the Freedom of Information Act and the Privacy Act to OCR investigations.

OCR intends to conduct a prompt investigation of this complaint and is seeking specific data from the [REDACTED]. The regulation implementing Title VI, at 34 C.F.R. § 100.6(b) and (c), requires that a recipient of Federal financial assistance make available to OCR information that may be pertinent to a compliance determination. This requirement is incorporated by reference in the Title IX regulation at 34 C.F.R. § 106.81. Pursuant to 34 C.F.R. § 100.6(c) and 34 C.F.R. § 99.31(a)(3)(iii), of the regulation implementing the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, OCR may review personally identifiable records without regard to considerations of privacy or confidentiality.

Accordingly, please provide the following information within twenty (20) calendar days of the date of this letter. OCR will provide such flexibility as is reasonable in response to a request for an extension of time within which to provide the requested data. Wherever possible, please provide the requested information in electronic format. If responsive data are available through the Internet, please provide the link to the data. Please do not provide OCR documentation or electronic information containing social security numbers (SSN); if SSN appear on a document or file that is otherwise responsive to OCR's request, please redact the SSN before producing to OCR. Further, it would be helpful if the pages in your response are numbered (*i.e.*, Bates numbering).

1. A narrative response to the specific allegations raised in the complaint including the [REDACTED] rationale for rescinding the Complainant's admission to the [REDACTED].
2. The [REDACTED] policies and procedures pertaining to different treatment on the basis of sexual orientation.
3. A copy of the "Statement of Identity" of the [REDACTED] and the basis for the Statement's section pertaining to the same-sex marriage of current or prospective students.
4. The criteria for admission to the [REDACTED] and the weight given to the "Statement of Identity" for admission for all potential students.
5. Copies of [REDACTED] correspondence regarding the decision to rescind the Complainant's admission to the [REDACTED], including but not limited to reports or complaints filed with the Board of Directors, investigative notes, internal memoranda, meeting notes, and written and electronic correspondence (including between [REDACTED] staff and between the [REDACTED] and the Complainant).
6. A copy of any appeal documents submitted to the [REDACTED] and the [REDACTED]'s response to the appeal, if applicable (including a copy of the appeal, any correspondence related to the appeal, and the appeal determination).

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7. State whether the [REDACTED] has denied an application for admission, rescinded an offer of admission, or dismissed any previously admitted student in the past five academic years based on sexual orientation.
8. Any other information the [REDACTED] deems relevant to this complaint.

Thank you for your cooperation in this matter. OCR understands that the COVID-19 virus may be impacting your institution's operations and ability to produce the requested data by the deadline. If this is the case, please contact us as soon as possible so that we may work with you to establish a feasible timeframe for submitting the data response. In addition, OCR may need to request additional information and interview relevant personnel.

Individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the [REDACTED] must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

OCR is committed to prompt and effective service. A redacted copy of the complaint is enclosed. At your earliest convenience, please notify OCR of the name, address, and telephone number of the person who will serve as the [REDACTED] contact person during the processing of this complaint. If you have any questions about this letter, you may contact [REDACTED], Attorney, at [REDACTED] [@ed.gov](mailto:[REDACTED]@ed.gov) or [REDACTED].

Sincerely,

A large black rectangular redaction box covering the signature area.

Enclosures